

SECOND REGULAR SESSION

SENATE BILL NO. 793

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR JACOB.

Pre-filed December 1, 2003, and ordered printed.

TERRY L. SPIELER, Secretary.

2605S.01I

AN ACT

To repeal sections 610.106 and 610.110, RSMo, and to enact in lieu thereof two new sections relating to closing of criminal records.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 610.106 and 610.110, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 610.106 and 610.110, to read as follows:

610.106. [Any person as to whom imposition of sentence was suspended prior to September 28, 1981, may make a motion to the court in which the action was prosecuted after his discharge from the court's jurisdiction for closure of official records pertaining to the case. If the prosecuting authority opposes the motion, an informal hearing shall be held in which technical rules of evidence shall not apply. Having regard to the nature and circumstances of the offense and the history and character of the defendant and upon a finding that the ends of justice are so served, the court may order official records pertaining to the case to be closed, except as provided in section 610.120.] **1. In the event a person is charged with a criminal offense and subsequently enters a guilty plea or is found guilty and imposition of sentence is suspended in the case for a period of time while the person is on court-ordered probation:**

(1) The official records of the case shall remain open until such time as the court-ordered probation is successfully completed;

(2) Upon successful completion of the court-ordered probation, the records of the case shall be sealed and closed for all purposes, notwithstanding any provision of the law or court order to the contrary; and

(3) Upon successful completion of the court-ordered probation, the person shall not thereafter be impeached by his or her arrest, charges, conviction or guilty plea in the case.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

2. Records required to be sealed and closed pursuant to this section shall be inaccessible to all persons other than the defendant, notwithstanding any provision of law to the contrary.

3. Nothing in this section shall be construed, interpreted or applied to deny or abridge any person's constitutional or statutory protection against double jeopardy.

4. The provisions of subsections 1, 2 and 3 of this section shall apply to all cases terminating prior to, on, or after the effective date of this section, except no case which terminated before the effective date of this section shall be re-opened because of any provision of this section.

610.110. No person as to whom such records have become **sealed or** closed [records] pursuant to section 610.105 or 610.106 shall thereafter, under any provision of law, be held to be guilty of perjury or otherwise of giving a false statement by reason of his **or her** failure to recite [or], acknowledge [such arrest or trial], **admit or confess any aspect of any such arrest or any such case** in response to any inquiry made of him for any purpose[, except as provided in section 491.050, RSMo, and section 610.120].

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